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*Attorney for Plaintiff/Counter-Defendant,
 U.S. Bank National Association as Legal Title Trustee
 on behalf of USROF IV Legal Title Trust 2015-1*

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

USROF IV LEGAL TITLE TRUST 2015-1,
 BY U.S. BANK NATIONAL
 ASSOCIATION, AS LEGAL TITLE
 TRUSTEE,

Plaintiff,

v.

SPINNAKER POINT AVENUE TRUST;
 RIVER GLIDER AVENUE TRUST;
 SATICOY BAY, LLC SERIES 5982
 SPINNAKER POINT AVENUE;
 MOUNTAIN GATE AT SUNRISE
 MOUNTAIN HOMEOWNERS'
 ASSOCIATION; ABSOLUTE
 COLLECTION SERVICES, LLC,

Defendant.

SATICOY BAY, LLC SERIES 5982
 SPINNAKER POINT AVENUE,

Counterclaimant,

vs.

USROF IV LEGAL TITLE TRUST 2015-1,
 BY U.S. BANK NATIONAL
 ASSOCIATION, AS LEGAL TITLE
 TRUSTEE, LLC,

Counter-Defendant

Case No.: 2:17-cv-00445-APG-VCF

**STIPULATION AND ORDER TO
 CONTINUE TRIAL**

**[FIRST REQUEST TO CONTINUE
 TRIAL]**

**Current Trial Date: March 14, 2022
 Trial Calendar Call: March 8, 2022
 Proposed New Trial Date: September
 14, 2022**

IT IS HEREBY STIPULATED Plaintiff/Counter-Defendant, PROF-2013-M4-Legal Title Trust IV, by U.S. Bank National Association, (“Trustee”), Defendant Mountain Gate at Sunrise Mountain Homeowners’ Association (“Mountain Gate”), Defendants and Counterclaimants Saticoy Bay, LLC Series 5982 and Spinnaker Point Avenue (“Defendants”) (collectively, the “Parties”), by their attorneys, hereby submit the following Stipulation and Order to Continue the March 14, 2022 by one hundred and eighty days (180) pursuant to LR IA 6-1 and LR 7-1. This is the Parties’ first request to continue the currently scheduled trial date and is submitted in good faith and not intended to cause any delay to this Court.

RECITALS

WHEREAS, Trustee’s predecessor-in-interest filed the instant action on February 9, 2017. *See* Dkt. 1.

WHEREAS, on April 12, 2017, the instant action was stayed (the “Stay”). *See* Dkt. 21.

WHEREAS, on August 10, 2017, this Court lifted the Stay. *See* Dkt. 26.

WHEREAS, on August 22, 2017 Trustee’s predecessor-in-interest filed an Amended Complaint asserting the following claims: (1) quiet title; (2) declaratory relief; (3) permanent and preliminary injunction; and (5) unjust enrichment (the “FAC”). *See* Dkt. 27.

WHEREAS, on October 10, 2019, Defendants filed their Answer and Affirmative Defenses to the FAC and filed the following counterclaims against the Trustee: (1) quiet title; and (2) declaratory relief. *See* Dkt. 49.

WHEREAS, on October 10, 2019, Defendants renewed their previously filed Motion to Dismiss. *See* Dkt. 50.

WHEREAS, on April 20, 2020, the Parties filed a “Stipulation for Extension of Time Re: Discovery,” which this Court granted on April 20, 2020. *See* Dkt. 69-70.

WHEREAS, on August 10, 2020, this Court granted Second Motion to Dismiss in part dismissing all of the FAC’s causes of action with the exception of Trustee’s unjust enrichment claim. *See*, Dkt. 76.

WHEREAS, on September 7, 2020, Trustee filed a motion for reconsideration requesting this Court reconsider its Order on Defendants’ Motion to Dismiss based upon changes in

1 applicable case law that occurred after Defendants' Motion to Dismiss was fully briefed. *See*
2 Dkt. at 80.

3 WHEREAS, on March 3, 2021, the Court denied Trustee's Motion for Reconsideration.
4 *See* Dkt. at 85.

5 WHEREAS, on May 4, 2021, this Court set this matter for a bench trial on March 14,
6 2022 while separately setting this matter for a March 8, 2022 calendar call. *See* Dkt. 90.

7 WHEREAS, on August 31, 2021, the Parties attended a mandatory settlement conference
8 before the Honorable Magistrate Elayna J. Yochah. *See* Dkt. 90.

9 WHEREAS, the Parties did not reach a settlement due to the pending statute of limitation
10 question raised by the Ninth Circuit Court of Appeals, which was certified to the Nevada Supreme
11 Court captioned as *U.S. Bank v. Thunder Props., Inc.*, Supreme Court Case No. 8112 ("*Thunder*
12 *Props*"). Because the outcome in *Thunder Props* would likely bear upon the application of the
13 statute of limitation in this case. *See* Dkt. 98.

14 WHEREAS, on August 31, 2021, the Honorable Magistrate Elayna J. Yochah issued an
15 Order: (1) continuing the settlement conference to date after the Nevada Supreme Court issued
16 its opinion in *Thunder Props*; and (2) instructing the Parties to file a joint status report within ten
17 days of a decision in *Thunder Props* being issued while separately requesting the Parties submit
18 three dates of availability to attend a second settlement conference. *See* Dkt. 98.

19 WHEREAS, on February 2, 2022, the Nevada Supreme Court issued its Opinion in
20 *Thunder Props* holding that: (1) "declaratory relief actions are not categorically exempt from
21 statutes of limitations under *City of Fernley v. Nevada Department of Taxation*, 366 P.3d 699
22 (Nev. 2016)"; (2) NRS 11.220's four year "catch all" statute of limitations applies to actions
23 seeking to determine the validity of a lien under NRS 40.010; and (3) the four-year statute of
24 limitations begins to run when "the titleholder affirmatively repudiates the lien, which does not
25 necessarily happen at the foreclosure sale." *See* Dkt. 101

26 WHEREAS, on February 10, 2022, the Parties filed their Joint Status Report outlining the
27 holding of the *Thunder Props* decisions and providing the following dates to attend a second
28 settlement conference: (1) March 4, 2022; (2) March 9, 2022; or (3) April 8, 2022. *See* Dkt. 101.

1 WHEREAS, trial is currently scheduled for March 14, 2022.

2 WHEREAS, the second settlement conference has not been set to date, but will likely
3 occur after the currently scheduled trial date.

4 WHEREAS, Trustee intends to file a Motion to Reconsider the Court's Order granting
5 Defendants' Motion to Dismiss in the immediate future in light of the *Thunder Props*' holding
6 concerning what triggers the applicable statute of limitation ("Motion to Reconsider").

7 WHEREAS, the loan at issue was recently sold to a new investor and service transferred
8 to a new loan servicer requiring the new investor substitute into this matter.

9 WHEREAS, there have been additional delays in this litigation due to the COVID-19
10 pandemic and resulting government, court and health orders and restrictions.

11 WHEREAS, the parties have been diligent in attempting to bring this matter to a
12 conclusion, including settlement discussions and conducting discovery.

13 WHEREAS, the Parties need additional time to complete settlement discussions and for
14 Trustee to file the above referenced Motion to Reconsider in light of the recent *Thunder Props*
15 holding.

16 WHEREAS, the Parties agree that, subject to this Court's approval, the March 14, 2022
17 trial date should be continued for at least one hundred and eighty days (180) or to a date
18 convenient for this Court to allow the Parties additional time continue their good faith attempts
19 to settle this litigation now that they have the benefit of guidance from the Nevada Supreme Court
20 on the statute of limitation issue in this case and, if necessary to obtain a ruling on Trustee's
21 Motion to Reconsider in light of the new applicable case law.

22 ***Agreement***

23 **NOW THEREFORE, IT IS HEREBY STIPULATED** by and between the Parties to
24 this litigation as follows:

25 1. The March 14, 2022 trial date be continued for at least 180 days, or to a date
26 convenient to this Court.

27 Dated: February 22, 2022

MAURICE WUTSCHER LLP

/s/ Patrick J. Kane

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*Attorneys for Plaintiff/Counter-Defendant,
U.S. Bank National Association as Legal
Title Trustee on behalf of USROF IV Legal
Title Trust 2015-1*

Dated: February 22, 2022

**BOYACK ORME ANTHONY &
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/s/ Patrick Orme

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Dated: February 22, 2022

**ROGER P. CROTEAU &
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Counterclaimants,*

*SPINNAKER POINT AVENUE TRUST,
RIVER GLIDER AVENUE TRUST, and
SATICOY BAY, LLC SERIES 5982
SPINNAKER POINT AVENUE*

Signature Attestation

I hereby attest under the penalty of perjury that on February 22, 2022, counsel for defendants approved this Stipulation and gave me permission to electronically sign this Stipulation on his behalf.

/s/ Patrick J. Kane
Patrick Kane

ORDER

IT IS ORDERED that the Bench Trial currently scheduled for March 14, 2022, is vacated and continued to September 12, 2022, at 9:00 a.m. in Courtroom 6C.

Calendar is continued to September 6, 2022, at 9:00 a.m. in Courtroom 6C.

IT IS SO ORDERED:

Dated: February 23, 2022



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE